

REMARKS

This application has been carefully reviewed in light of the Office Action dated November 2, 2007. Claims 32 to 40, 43 and 45 are in the application, with Claims 41, 42, 44 and 46 having been cancelled herein. Claims 32, 43 and 45 have been amended. Claims 32, 43 and 45 are the independent claims. Reconsideration and further examination are respectfully requested.

Applicant thanks the Examiner for the indication that Claims 39 and 40 contain allowable subject matter and would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has chosen not to rewrite these claims into independent form at this time since it is believed that their base claim is allowable for at least the reasons set forth below.

Claims 45 and 46 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Without conceding the correctness of the rejections, Claim 45 has been amended to recite a computer-executable program stored on a computer-readable storage medium, consistent with the guidelines at MPEP § 2106.01. Claim 46 has been cancelled without prejudice or disclaimer of subject matter. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 32 to 38 and 41 to 46 were rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 7,265,780 (Tanaka) in view of U.S. Patent No. 7,265,779 (Sato). The rejections are respectfully traversed and the Examiner is requested to reconsider and withdraw the rejections in light of the following comments.

The present invention generally concerns a communication device for searching image data. An attribute of positional information that is added to image data

stored in a communicating party is recognized. The image data stored in the communicating party is searched based on the recognized attribute and a desired one of a plurality of recognized attributes is selected. According to one aspect of the invention, a form of the selected attribute of the positional information is judged whether or not it is utilizable in the communication device to search the image data.

Referring specifically to the claims, Claim 32 is directed to a communication apparatus. The apparatus includes a recognizing device for recognizing at least an attribute of positional information that is added to image data stored in a communicating party. The apparatus further includes a searching device for searching the image data stored in the communicating party based on the recognized attribute of the positional information made by the recognizing device. Additionally, the apparatus includes a selecting device for selecting a desired one of a plurality of attributes recognized by the recognizing device. The apparatus also includes a judging device for judging whether or not a form of the attribute of the positional information selected by the selecting device is utilizable in the communication apparatus to search by the searching device.

Claims 43 and 45 are method and computer medium claims, respectively, that substantially correspond to Claim 32.

The applied art, alone or in any permissible combination, is not seen to disclose or to suggest the features of the present invention, and in particular, is not seen to teach at least the feature of judging whether or not a form of a selected attribute of positional information is utilizable in a communication apparatus to search image data.

In this regard, the Office Action admits that Tanaka fails to teach the device judging whether the positional information of the attribute selected is utilizable in the communication apparatus. Applicant agrees, and further submits that in the context of the amended claim language, Tanaka therefore also cannot disclose or suggest judging whether or not a form of a selected attribute of positional information is utilizable in a communication apparatus to search image data.

The Office Action relies on Sato (Figure 10) for the feature of judging whether the positional information of the selected attribute is utilizable in the communication apparatus.

Sato merely discloses an electronic camera (10) that communicates through an external communication device (44) with a server (42) to receive and display map information in the neighborhood of a user based on the user's positional information. See Figure 10 and Column 11, lines 54 to 61. If the user decides that the displayed map information includes the place the user is present and there is not a difference between the position on the map and the user's actual position, then the electronic camera (10) optically captures an image and the information of the place where the user is present is affixed to the image information. See Figure 10, Column 11, lines 62 to 65 and Column 12, lines 6 to 9 and 21 to 24. However, Sato is not believed to disclose or suggest at least the feature of judging whether or not a form of a selected attribute of positional information is utilizable in a communication apparatus to search image data.

Thus, Sato is merely seen to disclose an electronic camera which receives map information and records the map information on an optically-captured image as auxiliary information if the map information matches a user's positional information.

However, Applicant fails to see any disclosure in Sato of judging whether or not a form of a selected attribute of positional information is utilizable in a communication apparatus to search image data.

In view of the foregoing amendments and remarks, independent Claims 32, 43 and 45, as well as the claims dependent therefrom, are believed to be allowable.

No other matters being raised, it is believed that the entire application is fully in condition for allowance, and such action is courteously solicited.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

/Edward A. Kmett/

Edward A. Kmett

Attorney for Applicants

Registration No.: 42,746

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200

FCBS_WS 1950199v1